

05/15/2014 tsv

Form and Correctness Approved: *RAP*

By *William D. Nault*
Office of the City Attorney

Contents Approved: *AP*

By *De*
DEPT.

NORFOLK, VIRGINIA

ORDINANCE No. 45,571

R-2A AN ORDINANCE GRANTING A SPECIAL EXCEPTION TO SAM'S EAST, INC. AUTHORIZING THE SALE OF ALCOHOLIC BEVERAGES FOR OFF-PREMISES CONSUMPTION AT AN ESTABLISHMENT KNOWN AS "SAM'S CLUB" ON PROPERTY LOCATED AT 741 EAST LITTLE CREEK ROAD.

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That a Special Exception is hereby granted to Sam's East, Inc. authorizing the sale of beer and wine for off-premises consumption at an establishment known as "Sam's Club" on property located at 741 East Little Creek Road. The property which is the subject of this Special Exception is more fully described as follows:

Property fronting 647 feet, more or less, along the southern line of East Little Creek Road, beginning 438 feet, more or less, from the eastern line of Tidewater Drive and extending eastwardly; premises numbered 741 East Little Creek Road.

Section 2:- That the Special Exception granted hereby shall be subject to the following conditions:

- (a) The hours for the sale of alcoholic beverages for off-premises consumption shall be from 7:00 a.m. until 8:30 p.m. Monday through Saturday and from 10:00 a.m. until 6:00 p.m. on Sunday.
- (b) This special exception shall terminate in the event of a change in ownership of the facility and may be revoked in the event of a change in the operation of the facility as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the facility shall be effective until 120 days after the change or until a new special exception is granted showing the new

owner, whichever is earlier.

- (c) No alcoholic beverages other than those defined by state law as "beer," "wine," "wine cooler," or "low alcohol beverage cooler," shall be sold.
- (d) No alcoholic beverage having more than 21% alcohol by volume shall be sold.
- (e) No beer shall be sold in any package containing fewer than six (6) bottles with the exception of refillable containers at least 32 oz. capacity.
- (f) The facility shall maintain a current, active business license at all times while in operation.
- (g) The business authorized by this Special Exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," and labeled, "Off-Premise Sale of Alcoholic Beverage" attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this Special Exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new Special Exception must be obtained prior to any such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.
- (h) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this Special Exception. This Special Exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.
- (i) A copy of this Special Exception ordinance and "Exhibit A" shall be available on site at all times for inspection, and a notice indicating that this Special Exception ordinance and all amendments are

kept on the premises and are available for review by any member of the general public shall be posted in a visible location. The notice shall also contain information on where and how to report violations of conditions and shall include the address of the zoning administrator.

Section 3:- That the City Council hereby determines that the Special Exception granted herein complies with each of the requirements of § 25-7 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), namely that:

- (a) The proposed use and development will be in harmony with the objectives and policies of the adopted general plan and with the general and specific purposes for which this ordinance was enacted and for which the regulations of the district in question were established;
- (b) The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located;
- (c) The proposed use and development will not have an adverse effect upon the character of the area or the public health, safety and general welfare. Conditions may be applied to the proposed use and development, as specified in section 25-8 below, to mitigate potential adverse impacts;
- (d) The proposed use and development will be constructed, arranged and operated so as not to interfere with the use and development of neighboring property in accordance with the applicable district regulations;
- (e) The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities, drainage structures, police and fire protection, refuse disposal, parks, libraries, and schools;
- (f) The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets;

- (g) The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance;
- (h) The proposed use and development will not cause substantial air, water, soil or noise pollution or other types of pollution which cannot be mitigated;
- (i) The proposed use and development will not cause a negative cumulative effect, when its effect is considered in conjunction with the cumulative effect of various special exception uses of all types on the immediate neighborhood and the effect of the proposed type of special exception use on the city as a whole;
- (j) The proposed use and development complies with all additional standards imposed on it by the particular provisions of the ordinance authorizing such use; and
- (k) No application for a special exception shall be recommended or granted until any and all delinquent real estate taxes owed to the City of Norfolk on the subject property have been paid.

Section 4:- That this ordinance shall be in effect from the date of its adoption.

ATTACHMENT:
Exhibit A (4 pages)

Adopted by Council June 10, 2014
Effective June 10, 2014

TRUE COPY
TESTE:

R. BRECKENRIDGE DAUGHTREY, CITY CLERK

BY: _____
DEPUTY CITY CLERK

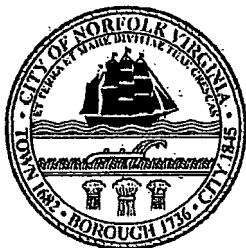


EXHIBIT "A"
Description of Operations
Off-Premises Sale of Alcoholic Beverage

Date of Application: April 7, 2014

Name of business: Sam's Club

Address of business: 741 E. Little Creek Road

Name(s) of business owner(s)*: Sam's East, Inc.

Name(s) of property owner(s)*: Little Tidewater Associates, LLC - Timothy M. Finn

Name(s) of business manager(s)/operator(s):

Daytime telephone number ()

*If business or property owner is partnership, all partners must be listed.

*If business or property owner is an LLC or Corporation, all principals must be listed.

1. Proposed Hours of Operation:

Facility

Weekday From 7:00 am To 8:30 pm

Friday From 7:00 am To 8:30 pm

Saturday From 7:00 am To 8:30 pm

Sunday From 10:00 am To 6:00pm

Alcoholic Beverage Sales

Weekday From 7:00 am To 8:30 pm

Friday From 7:00 am To 8:30 pm

Saturday From 7:00 am To 8:30 pm

Sunday From 10:00 am To 6:00pm

2. Type of alcoholic beverage applied for:

☒ Beer ☒ Wine ☐ Mixed Beverage

3. Alcoholic beverages to be sold:

☒ Room temperature ☒ Refrigerated

DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT

810 Union Street, Room 508

Norfolk, Virginia 23510

Telephone (757) 664-4752 Fax (757) 441-1569

(Revised July, 2013)

Exhibit A – Page 2
ABC-Off

4. As a general rule, the City does not approve selling beer in a single-sized serving container or selling wine in a bottle that is less than 375 milliliters. If you are seeking approval to sell servings that do not meet these criteria, please explain your justification as well as indicate what sizes you would sell:



Signature of applicant/owner

Council to Applicant

DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT

810 Union Street, Room 508

Norfolk, Virginia 23510

Telephone (757) 664-4752 Fax (757) 441-1569

(Revised July, 2013)

Exhibit A – Page 2
ABC-Off

4. As a general rule, the City does not approve selling beer in a single-sized serving container or selling wine in a bottle that is less than 375 milliliters. If you are seeking approval to sell servings that do not meet these criteria, please explain your justification as well as indicate what sizes you would sell:

Timothy M. Fox manage Little
Signature of applicant/owner Tidewater Associates,
4/3/14 LLC

**Adult Use Special Exception Application
Alcoholic Beverages for Off-Premises Consumption**

The Applicant, a large national retailer, proposes to develop an approximate 134,500 square foot membership retail store on the site of a vacant retail building located near the corner of East Little Creek Road and Tidewater Drive. The store would sell refrigerated and non-refrigerated beer and wine for off-premises consumption as part of its grocery component, in compliance with all Virginia codes and alcoholic beverages regulations.